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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,338	09/10/2003	Michael W. Bosse	23122.01	1867

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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10/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,338

Applicant(s)

BOSSE, MICHAEL W.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Appendix A

DETAILED ACTION

Claim Objections

1. Claims 17 and 18 are objected to because of the following informalities: It appears that these claims should be dependant off of claim 16 not 15. Dependency off of claim 15 creates antecedent basis issues. For this Office action only, claims 17 and 18 will be examined as if they were dependant off of claim 16. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15, 20-22, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (D272,712). See Appendix A for examiner added reference labels.

Regarding claims 15 and 28, Allen discloses the same invention including a tool (1) comprising an elongated bar (2) having a first end (2a) and a second end (2b), a cutting tool disposed on the first end of the bar (3), the lock cutting tool (3) being a generally rectangular, flat plate (Fig. 4) having leading (4) and trailing edges (5) and top (Fig. 4) and bottom surfaces (Fig. 5), bar being joined to the lock cutting tool generally between the leading and trailing edges (Fig. 1), the bar being angled away from the top surface and extending rearward from the lock cutting tool (2), a tool piece (6) extending from the second end of the bar (2) and being axially aligned with the bar (Fig. 1), a first

impact collar disposed on the bar near the first end and substantially near the trailing edge of the cutting tool (7) so as to form a space between the first impact collar and the trailing edge to accommodate a bar (S), a second impact collar disposed on the bar near the second end (8), and a weight slidably disposed on the bar between the first and second impact collars (9).

Regarding claim 20, Allen discloses the leading edge of the lock cutting tool is bifurcated to form a cutting slot (10), and the cutting slot being a generally "V" shaped slot having inner edges (10).

Regarding claim 21, Allen discloses the top surface of the lock cutting tool (3) is tapered along the leading edge (4).

Regarding claim 22, Allen discloses the leading edge of the lock cutting tool is bifurcated to form a generally "V" shaped slot having inner edges (10), the top surface of the cutting tool being tapered along the inner edges of the cutting slot (11).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15, 16, 18, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell (6,098,292) in view of Gallo (6,308,934). Regarding claims 15 and 28, Harpell discloses the invention including a tool (title) comprising an elongated bar (9) having a first end (7) and a second end (top of 9), a cutting tool

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disposed on the first end of the bar (3), the lock cutting tool (3) being a generally rectangular, flat plate (Fig. 1) having leading (5) and trailing edges (11) and top (Fig. 1) and bottom surfaces (Fig. 8), bar being joined to the lock cutting tool generally between the leading and trailing edges (Fig. 1), and the bar being angled away from the top surface and extending rearward from the lock cutting tool (9).

In regards to claims 25-27, Harpell discloses the cutting tool has at least one groove formed on the top surface (in-between 21 and 7) and the bottom surface (41), the grooves extending transversely across (Figs. 3 and 8), and the bar and cutting tool are joined at an angle between 15° and 45°(column 5 lines 32-42).

However, Harpell fails to disclose a tool piece extending from the second end of the bar and being axially aligned with the bar, a first impact collar disposed on the bar near the first end and substantially near the trailing edge of the cutting tool so as to form a space between the first impact collar and the trailing edge to accommodate a bar, a second impact collar disposed on the bar near the second end, a weight slidably disposed on the bar between the first and second impact collars, the tool piece is a length of metal, and the metal is tapered to form a blade.

Gallo teaches it is old and well known in the art of demolition tools to incorporate a tool piece extending from the second end of the bar (18) and being axially aligned with the bar (Fig. 2), a first impact collar disposed on the bar near the first end and substantially near the trailing edge of the cutting tool (16) so as to form a space between the first impact collar and the trailing edge to accommodate a bar (Fig. 1), a second impact collar disposed on the bar near the second end (14), a weight slidably

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disposed on the bar between the first and second impact collars (32), the tool piece is a length of metal (Column 3 lines 42-44), and the metal is tapered to form a blade (22).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Harpell with an additional tool on the second end and an impact means, as taught by Gallo, to allow the user to carry more than one tool and to allow the user to apply more of a force to the work piece.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell in view of Gallo applied to claims 15 and 16 above, and further in view Skamser (D153,182).

Harpell in view of Gallo fail to disclose the metal stock is square.

However, Skamser discloses it is old and well known in the art of metal to incorporate a tool piece wherein the metal stock is square (Fig. 1). Considering a manufacturing standpoint, the square stock would be easier to machine than the round stock used in the Harpell and Gallo devices. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide Harpell in view of Gallo with a square stock for the tool piece, as disclosed by Skamser, for an alternate shaped item providing predictable results.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell in view of Gallo as applied to claim 15 above, and further in view of Kraus (4,235,269).

Harpell in view of Gallo fail to disclose a tool piece receptacle or a setscrew.

However, Kraus discloses a tool piece receptacle that allows the tip of the tool piece (1) to be removed from the bar (20). Making the tool piece removable allows the

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part to be changed according to the operator's needs. See Abstract. In addition, Kraus discloses a set screw aperture and a set screw (16) engaging the set screw aperture, whereby a tool piece (1) is removably retained. The set screw (16) secures the removable component in place until it is desired to detach it. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide Harpell in view of Gallo with a tool piece receptacle and set screw, as disclosed by Kraus, for the purposes of replacing and securing the tool piece.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harpell in view Gallo as applied to claim 15 above, and further in view of Lampe (6,213,527).

Harpell in view Gallo fail to disclose the top surface of the lock removal tool is tapered along the trailing edge.

However, Lampe teaches it is old and well known in the art of demolitions tools to incorporate a cutting tool with a taper along the trailing edge (22). This feature creates a sharpened surface that allows the trailing edge to perform different tasks, such as chopping (col. 4, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Harpell in view Gallo a tapered trailing edge, as disclosed by Lampe, for the purpose of creating two operable edges.

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Allen (D262,513). Allen fails to disclose the bottom surface of the cutting tool is curved at the leading edge.

However, Allen (D262,513) teaches it is old and well known in the art of demolition tools to incorporate a lock removal tool wherein the bottom surface of the cutting tool is curved at the leading edge (Fig. 1). The curved bottom surface allows for a rocking motion during lock removal that would ease the process. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Allen with a curved bottom surface on the leading edge of the lock cutting tool, as taught by Allen (D262,513), in order to ease the removal purpose through rocking.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bailey, Lynch, Mason, Hamilton, Jr., Lee, Bailey et al., Goggins, Kerins, Jeanminette, Maher et al., Svendsgaard, Frady, and Bundy.

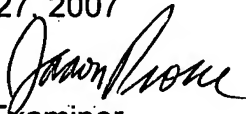
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 8:00-5:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 27, 2007



Patent Examiner
Jason Prone
Art Unit 3724
T.C.3700

Appendix A

